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The rule of law at the national and international levels

Letter dated 24 July 2014 from the Permanent Representative of Switzerland to the United Nations addressed to the Secretary-General

On 24 September 2012, during the high-level meeting of the sixty-seventh session of the General Assembly on the rule of law at the national and international levels, Switzerland and the Netherlands pledged to draft, together with the United Nations Secretariat, a handbook to assist States wishing to recognize the jurisdiction of the International Court of Justice as compulsory. The Netherlands and Switzerland were joined by Botswana, Japan, Lithuania, the United Kingdom of Great Britain and Northern Ireland and Uruguay. The initiative supports the efforts of the Secretariat to promote the compulsory jurisdiction of the Court as a peaceful means of settling disputes, and shows the commitment made to this endeavour by Member States in all regions of the world.

I am pleased to inform you that the above-mentioned Member States, together with the United Nations Office of Legal Affairs, have developed the attached handbook on accepting the jurisdiction of the International Court of Justice (see annex). The handbook provides a short presentation of the Court and outlines the process for accepting its jurisdiction, using examples of relevant instruments, template declarations and model clauses. The handbook is prefaced by the sponsoring States as well as by the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel.

I trust that the handbook will be of interest to the wider membership, and I would be most grateful if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 85.

In order to reach the broadest possible audience, the authors plan to print the handbook in brochure format, make it available online and distribute it during the second half of 2014.

(*Signed*) Paul **Seger**
Ambassador
Permanent Representative

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Annex to the letter dated 24 July 2014 from the Permanent Representative of Switzerland to the United Nations addressed to the Secretary-General

Handbook on accepting the jurisdiction of the International Court of Justice: model clauses and templates

Foreword of the authors

The International Court of Justice is the principal judicial organ of the United Nations. For the Court to be able to settle a dispute, the States involved must have accepted its jurisdiction. There are different means of doing that: by concluding a special agreement, by becoming party to a treaty that provides for the settlement of disputes by the Court or by filing a unilateral declaration recognizing the jurisdiction of the Court. Increasing the number of States that accept the Court's jurisdiction will enable the Court to better reach its full potential in contributing to the peaceful settlement of disputes and to the maintenance of international peace and security, as well as to the development of friendly relations among nations on the basis of the rule of law.

Switzerland, the Netherlands, Uruguay, the United Kingdom of Great Britain and Northern Ireland, Lithuania, Japan and Botswana have produced this handbook to highlight the benefits of the Court and outline the process for accepting its jurisdiction, using examples of relevant instruments, template declarations and model clauses. The handbook's purpose is to assist States wishing to recognize the jurisdiction of the Court or to submit disputes to it. It is addressed to diplomats, legal advisers and political officers of foreign ministries, mediators and those who exercise "good offices" functions. But it is also addressed to members of delegations to international treaty negotiations or anyone else who may find herself or himself providing advice on referring a contentious issue to the Court.

The handbook will be printed in brochure format and made available online during the second half of 2014.

Berne, The Hague, Montevideo, London, Vilnius, Tokyo and Gaborone, July 2014

Foreword of the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel

It gives me great pleasure to contribute a foreword to this most useful publication on the modes of accepting the jurisdiction of the International Court of Justice by Member States of the United Nations.

The Charter of the United Nations lists the International Court of Justice among the principal organs of the United Nations, together with the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council and the Secretariat. The Statute of the Court forms a part of the Charter, making the Court an inseparable part of the United Nations system that serves both the Organization itself and its Member States.

Over the past 20 years, the Court has become increasingly active. More and more States are having recourse to the Court, since it offers convenient and effective means for the peaceful resolution of their differences. Its unique mandate, which covers all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force, coupled with its universal character, as well as the authoritative value of its decisions and the consent-based nature of its jurisdiction, make the Court the preferred mechanism for the adjudication of legal disputes between States.

To further boost this steady momentum and encourage Member States to refer their legal disputes to the Court, the Secretary-General launched a campaign in 2013 aimed at increasing the number of States that recognize the compulsory jurisdiction of the Court under Article 36, paragraph 2, of the Court's Statute and at encouraging States to withdraw reservations that they may have made to compromissory clauses in multilateral treaties to which they are party. The campaign has succeeded in refocusing international attention upon the Court and highlighting the importance of the peaceful settlement of international disputes.

I believe that it is especially important that Member States support these efforts of the Organization and actively engage in initiatives to further promote the ideal of universal acceptance of the jurisdiction of the world Court. This timely publication, jointly prepared by Switzerland, the Netherlands, Uruguay, the United Kingdom, Lithuania, Japan and Botswana, is a good example of the positive contribution that Member States can make to this process. I praise the efforts of the authors of this publication to provide short, helpful guidance on the various options that exist for accepting the jurisdiction of the Court, with model clauses and other examples that may be useful for practitioners and decision makers. I am confident that it will prove extremely useful to many.

New York, July 2014

(*Signed*) Miguel **de Serpa Soares**
Under-Secretary-General for Legal Affairs and United Nations Legal Counsel

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I. Reader's guide

1. The maintenance of peace and security is one of the most important aims of the international community. This aim was enshrined in the Charter of the United Nations as a purpose of the Organization (Article 1, para. 1). One of the fundamental principles of the Charter provides that "[a]ll Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered" (Article 2, para. 3).

2. The principle of the peaceful settlement of disputes has often been reiterated by the United Nations, in particular in 1970 (Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations), in 1982 (Manila Declaration on the Peaceful Settlement of International Disputes), in 2005 (World Summit Outcome) and in various recent instruments of the General Assembly and Security Council dedicated to the rule of law at the national and international levels.

3. The United Nations Charter not only requires States to solve their conflicts in a peaceful way; it also provides a forum for the judicial settlement of disputes in accordance with international law. This is the principal function of the International Court of Justice.

A. What is the International Court of Justice?

4. The International Court of Justice was established in 1945 by the United Nations Charter and began its work in 1946. It is the principal judicial organ of the United Nations and a central institution for the peaceful settlement of legal disputes between States. It functions in accordance with its Statute, which forms an integral part of the Charter. It succeeded the Permanent Court of International Justice, which was established by the Covenant of the League of Nations, was operational between 1922 and 1940 and was dissolved in 1946. The seat of the International Court of Justice is in The Hague, the Netherlands.

5. The Court is composed of 15 judges, who are elected for terms of office of nine years by the General Assembly and the Security Council, and is supported by the Registry, its permanent administrative organ. Together, the 15 judges should be representative of the main forms of civilization and of the principal legal systems of the world. The Court's official languages are French and English.

6. The principal function of the Court is to decide, in accordance with its Statute and international law, legal disputes submitted to it by States (this is known as "contentious jurisdiction". The Court also gives advisory opinions on legal questions referred to it by the General Assembly, the Security Council or other United Nations organs and specialized agencies so authorized by the General Assembly (known as "advisory jurisdiction"; see Article 96 of the Charter).

B. Who may use the Court?

7. To become parties to a contentious case before the Court, States must both have access to the Court and accept its jurisdiction:

- Access to the Court is granted to all States that are parties to the Statute of the Court (Article 35, para. 1, of the Statute of the Court). All Members of the United Nations are automatically parties to the Statute of the Court (Article 93, para. 1, of the Charter). Subject to certain conditions, a State which is not a Member of the United Nations may become a party to the Statute of the Court (Article 93, para. 2, of the Charter). Exceptionally, the Court may also be open to States that are not parties to the Statute of the Court (Article 35, para. 2, of the Statute of the Court); the Security Council determined the conditions under which the Court shall be open to States that are not parties to the Statute of the Court in its resolution 9 (1946) of 15 October 1946.

- Jurisdiction of the Court is based on the consent of the States to which it is open. In a specific case, the Court has jurisdiction if the parties have consented to the settlement of their dispute by the Court. This consent may be expressed by means of unilateral declarations (also referred to as "optional clause" declarations; see chap. II), in treaties (see chap. III) or through special agreements (see chap. IV). It may also be expressed after the Court has been seized (forum prorogatum; see chap. V).

C. How the Court works

8. Bringing a case to the Court means referring a matter to an independent and impartial adjudicative body, which makes a decision on the basis of objective legal criteria. The Court will weigh the evidence submitted to it, the legal arguments advanced by the parties and the relevant rules and principles of international law, in order to deliver a reasoned and just judgment.

9. The procedure before the Court consists of a written part and an oral part. All parties have an equal opportunity to present their arguments on the jurisdiction of the Court as well as on the admissibility and merits of the case in hand. During the proceedings, or even when instituting them, a party may request the Court to order provisional measures to prevent imminent and irreparable damage from being caused to the rights in dispute, before the Court has had an opportunity to rule on the merits of the case. This instrument enables the Court to act quickly and efficiently, if the circumstances so require, to preserve the respective rights of the parties.

10. Unless discontinued, the proceedings are concluded by a judgment of the Court. Judgments delivered by the Court are binding upon the parties, final and without the right of appeal. Each party must abide by the judgment. Provision is made in the United Nations Charter for recourse to the Security Council if a party fails to comply with a judgment (Article 94, para. 2). As the emanations of the principal judicial organ of the United Nations, the Court's judgments are taken very seriously. States usually make every effort to comply with them. The case law of the Court is abundantly quoted not only by other international courts and tribunals, but also by domestic courts. The International Law Commission relies on the Court's case law in its work relating to the promotion of the progressive development of international law and its codification. Legal advisers and scholars in the field of international law also refer to the Court's case law in their daily work. The recognition thus granted to the Court's case law provides a positive impetus for the Court to ensure that its judgments are clear, well-reasoned and consistent.

D. Previous cases

11. Since its establishment in 1945, more than 130 contentious cases have been brought before the Court, which has given more than 110 judgments. The Court has solved disputes in many fields of international law. It has developed solid case law in the areas of maritime delimitation and land boundary disputes. It has also settled disputes in areas as diverse as State responsibility, the interpretation of bilateral or multilateral treaties, sovereignty over maritime features, diplomatic protection, human rights, international humanitarian law, environmental law, the protection of living resources and human health. States are increasingly turning to the Court as a forum that is well suited to address disputes which have potential consequences for the preservation of the natural environment and related issues.

12. More than 90 States have taken part in proceedings before the Court, including States in Africa, Asia (including the Middle East), South, Central and North America, Oceania and Europe. The fact that States from all regions of the globe, despite legal, political and cultural diversity, have put their confidence in the Court confirms its universal dimension and reinforces its authority. In many instances, the action of the Court and its judgments have contributed to strengthening the relations between the parties to a dispute. Once the dispute has been addressed by the Court, the Parties can move on to concentrate on the development of their cooperation on a sound basis.

13. In addition to settling specific disputes, the Court fulfils another vital task, that of stating the law. The rules of international law are not always as precise and clear as they could be. This is particularly true as far as customary international law is concerned. When confronted with a case, the Court is offered the opportunity to give an authoritative ruling on questions of international law. By doing so, the Court clarifies and develops international law, which leads to greater legal certainty.

E. Why is the Court a particularly attractive judicial forum?

14. It follows from the above overview of the Court's structure, functions and impact that it is in the interest of States to have their disputes settled by the Court. As a matter of fact, the Court is a particularly attractive judicial forum, notably for the following reasons:

- **The Court can hear any legal dispute concerning international law**. The function of the Court is to render judgments, in accordance with international law, in such disputes as are submitted to it. Unlike many other international dispute settlement mechanisms, the scope of action of the Court is not limited to a specific field of international law. If the parties so wish, any dispute related to international law may be submitted to the Court. Consequently, the Court plays a central role in the international legal framework.
- **The Court settles disputes between States peacefully**. When seized of a dispute, the Court renders a judgment and provides for the stable settlement of the dispute, based on legal grounds. Entrusting a case to the Court is an effective way to achieve peaceful conflict settlement and to bring about more harmonious inter-State relations.

- **The Court provides an option for unlocking diplomatic impasses peacefully**. Negotiations between parties to a dispute remain the best way to settle differences. However, negotiations may not always prove successful. In the case of a stalemate in negotiations, a dispute may quickly escalate. In such situations, accepting the jurisdiction of the Court will offer a valuable and mutually acceptable way out. That being said, the fact that the Court is seized of a case does not prevent the parties from continuing or resuming negotiations. In *Aerial Herbicide Spraying (Ecuador v. Colombia)*, the parties reached an agreement to settle the dispute and the Court proceedings were discontinued. Both parties praised the Court for the time, resources and energy it had devoted to the case and acknowledged that reaching an agreement would have been difficult, if not impossible, but for the involvement of the Court. In this light, submitting a dispute to the Court should not be considered an unfriendly act (see Manila Declaration on the Peaceful Settlement of International Disputes (General Assembly resolution 37/10)). On the contrary, it demonstrates the readiness of the party or parties introducing the proceedings to bring about a peaceful settlement of the dispute.

- **The Court offers an efficient and affordable dispute settlement mechanism**. It is left to the discretion of the parties to choose, instead of the Court, other third-party institutions or dispute settlement mechanisms. Recourse to arbitral tribunals, for instance, might be a flexible and time-efficient, but costly, option. In proceedings before the Court, the administrative costs of the Court are borne by the United Nations. As far as the costs incumbent upon the parties are concerned (counsel, agents, experts, preparation of memorials and counter-memorials, etc.), the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice may provide financial assistance (see chap. VI).

- **The Court has nearly 100 years of experience in dispute settlement**. Together, the Permanent Court of International Justice and its successor, the International Court of Justice, have amassed over 90 years of experience and expertise in the peaceful settlement of international disputes.

- **The Court renders authoritative judgments**. Judgments of the Court have a significant impact not only on the parties to the dispute, but also on other States and on the international community. Over the years, the Court has developed a solid body of case law, which has gained worldwide recognition.

- **The Court promotes the rule of law at the international level**. By applying the law in the cases submitted to it, the Court states and develops international law, thus contributing to the development of the rule of law more generally. In other words, accepting the jurisdiction of the Court and agreeing to be a party to a case, which are clear indicators of a State's recognition of and respect for the rule of law, is not only beneficial to the accepting State, but also benefits international law in general and the international community as a whole.

F. What does this handbook do?

15. This handbook is dedicated to the jurisdiction of the Court in contentious cases only. It does not address the question of access to the Court (see para. 7), nor does it cover the Court's jurisdiction to give advisory opinions on legal questions at the

request of the General Assembly, the Security Council or other United Nations organs and specialized agencies authorized to make such a request (advisory jurisdiction; see para. 6).

G. How to use this handbook

16. The table of contents provides a tool for quick reference. In addition, references to related sections are made throughout the text.

17. The handbook is divided into three main parts, dedicated to the principal means of accepting the jurisdiction of the Court: unilateral declarations (chap. II), treaties (chap. III) and special agreements (chap. IV). Chapter V addresses the particular case of the acceptance of jurisdiction after the seizure of the Court (forum prorogatum), chapter VI presents the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, chapter VII contains a flow chart for States wishing to recognize the jurisdiction of the Court, and chapter VIII provides references for further information.

18. The model clauses and templates presented in chapters II, III and IV are not exhaustive. They reflect commonly used formulas that have proved effective in practice. They are graphically depicted in two sections:

The first section contains the text of the model clauses and templates. In order to provide templates that can be used in all situations, the texts portrayed in the first section have been standardized. However, they have been carefully drafted to match the Statute of the Court, the Rules of Court and the Practice Directions.

Introduced by the words "For practical examples, see", the second section lists references to practical (real) examples of the clauses contained in the first section. These examples were used as inspiration for the drafting of the model clauses or templates. Because of the necessity of standardizing the templates, the examples may not be identical to the texts in the first section, but they illustrate the use of the clauses in context.

In the first section, different font styles and formats are used to portray the model clauses and templates, as follows:

Bold text	=	Text of the clause
ITALIC UPPERCASE	=	Information to be inserted
[...]	=	Optional text (may be included or not)
[or: ...]	=	Alternative option to proposed text (at least one option must be chosen)

H. Sources, abbreviations and acronyms

19. For the drafting of the present handbook, the work, in particular, of the Institute of International Law (resolution of 17 April 1956) and of the Council of Europe (Recommendation CM/Rec(2008)8 of the Committee of Ministers to Member States on the acceptance of the jurisdiction of the International Court of Justice of 2 July 2008), as well as statements by the President of the International Court of Justice, served as useful sources of inspiration.

20. The handbook uses the following abbreviations and acronyms:

Court	=	International Court of Justice
Practice Direction(s)	=	Practice Directions of the International Court of Justice of 31 October 2001
Rules of Court	=	Rules of Court of 14 April 1978
Statute of the Court	=	Statute of the International Court of Justice of 26 June 1945
Trust Fund	=	Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice
Charter	=	Charter of the United Nations of 26 June 1945
Treaty Series	=	United Nations Treaty Series

II. Unilaterally accepting the jurisdiction of the Court

A. General

21. In accordance with Article 36, paragraph 2, of the Statute of the Court, States may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning (a) the interpretation of a treaty, (b) any question of international law, (c) the existence of any fact which, if established, would constitute a breach of an international obligation, and (d) the nature or extent of the reparation to be made for the breach of an international obligation.

22. Declarations recognizing as compulsory the jurisdiction of the Court take the form of a unilateral act of the State concerned. According to Article 36, paragraph 4, of the Statute of the Court, declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

23. In a specific case, the Court will have jurisdiction if the parties have made declarations recognizing the jurisdiction of the Court and if the parties, in their respective declarations, have recognized that jurisdiction in respect of the subject matter of the proceedings. The dispute can be submitted to the Court by a unilateral written application.

24. There are currently some 70 declarations in force providing for the jurisdiction of the Court (for a map of States that have unilaterally accepted the jurisdiction of the Court, see para. 97). A list of declarations can be found on the website of the Court (see chap. VIII.B). Since the establishment of the Court in 1945, about 30 per cent of its cases have been submitted on the basis of such declarations.

25. According to Article 36, paragraph 5, of the Statute of the Court, declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the Statute of

the Court, to be acceptances of the compulsory jurisdiction of the Court for the period which they still have to run and in accordance with their terms.

B. Model clauses

26. There are no strict statutory requirements regarding the form and content of declarations recognizing as compulsory the jurisdiction of the Court. Such declarations are nevertheless typically composed of the following elements: conferral of jurisdiction, final clauses and signature. Declarations may also include a title and a preamble, but that is rare in practice.

1. Conferral of jurisdiction

27. Most declarations use the wording of Article 36, paragraph 2, of the Statute of the Court to confer jurisdiction on the Court.

> **The Government of *STATE* recognizes as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of that Court.**
>
> For practical examples, see: Timor-Leste (21 September 2012; *Treaty Series*, (volume forthcoming), No. I-50108); Peru (9 April 2003; *Treaty Series*, vol. 2219, No. I-39480); Cameroon (2 March 1994; *Treaty Series*, vol. 1770, No. I-30793); Costa Rica (5 February 1973; *Treaty Series*, vol. 857, No. I-12294); Uganda (3 October 1963; *Treaty Series*, vol. 479, No. I-6946; Cambodia (9 September 1957; *Treaty Series*, vol. 277, No. I-3998); and the Netherlands (1 August 1956; *Treaty Series*, vol. 248, No. I-3483).

28. Given that the nature of the jurisdiction of the Court is strictly consensual, States are free to include reservations in their declarations, as long as they are compatible with the Statute of the Court. Reservations are limitations on or exceptions or qualifications to the commitments made in the declaration to recognize the jurisdiction of the Court. They protect the declaring State against undesired involvement in judicial proceedings to the extent specified. However, declarations are made on condition of reciprocity. Consequently, except as otherwise provided, any reservation will weaken, to the same extent, the opportunity of the declaring State to bring a case to the Court against another State. Thus, any State against which the declaring State brings a case can invoke the declaring State's reservation against the declaring State itself.

29. The objective of a declaration is to offer a forum for the settlement of legal disputes. The Court is, however, not the only forum that is available for this purpose. Consequently, a State may include in its declaration the possibility of submitting disputes to other methods of peaceful settlement as may be agreed between the parties.

> **This Declaration does not apply to any dispute in respect of which the Parties have agreed or shall agree to have recourse to some other method of peaceful settlement for a final and binding decision.**

For practical examples, see: Lithuania (21 September 2012; *Treaty Series* (volume forthcoming), No. I-50078); Peru (9 April 2003; *Treaty Series*, vol. 2219, No. I-39480); Australia (21 March 2002; *Treaty Series*, vol. 2175, No. I-38245); Nigeria (29 April 1998; *Treaty Series*, vol. 2013, No. I-34544); Poland (25 March 1996; *Treaty Series*, vol. 1918, No. I-32728); India (15 September 1974; *Treaty Series*, vol. 950, No. I-13546); and Austria (28 April 1971; *Treaty Series*, vol. 778, No. I-11092).

30. A reservation may be included in order to exclude from the jurisdiction of the Court specific classes of disputes, for example, disputes relating to a specific treaty (or classes of treaties), specific factual situations (such as armed conflicts) or a specific legal field (such as territorial sovereignty or the delimitation of boundaries).

This Declaration does not apply to any dispute concerning the interpretation or application of *SPECIFIC_TREATY* [or: **relating to** *SPECIFIC_FACTS*] [or: **relating to** *SPECIFIC_DOMAIN*].

For practical examples, see: Australia (21 March 2002; *Treaty Series*, vol. 2175, No. I-38245); Nigeria (29 April 1998; *Treaty Series*, vol. 2013, No. I-34544); Poland (25 March 1996; *Treaty Series*, vol. 1918, No. I-32728); and India (15 September 1974; *Treaty Series*, vol. 950, No. I-13546).

31. A class of dispute which is often reserved concerns disputes relating to the domestic jurisdiction of the State. Strictly speaking, such disputes do not fall under the jurisdiction of the Court anyway, since the Court only hears disputes governed by international law. However, many States prefer to make such reservations for political reasons.

This Declaration does not apply to any dispute relating to matters which, under international law, are exclusively within the domestic jurisdiction of *STATE*.

For practical examples, see: Côte d'Ivoire (22 August 2001; *Treaty Series*, vol. 2158, No. I-37736); Poland (25 March 1996; *Treaty Series*, vol. 1918, No. I-32728); Senegal (22 October 1985; *Treaty Series*, vol. 1412, No. I-23644); and Cambodia (9 September 1957; *Treaty Series*, vol. 277, No. I-3998).

32. Reservations may contain temporal limitations on the jurisdiction of the Court, in particular limitations excluding disputes that have arisen prior to a certain date or that relate to events that occurred before a particular date.

This Declaration does not apply to any dispute arising prior to DATE or relating to facts or situations which occurred prior to that date.

For practical examples, see: Nigeria (29 April 1998; *Treaty Series*, vol. 2013, No. I-34544); Poland (25 March 1996; *Treaty Series*, vol. 1918, No. I-32728); and India (15 September 1974; *Treaty Series*, vol. 950, No. I-13546).

33. In order to avoid being confronted with an application filed by a State which, only shortly beforehand, had made a unilateral declaration recognizing the jurisdiction of the Court, the following reservations may be made, either separately or in conjunction.

This Declaration does not apply to any dispute in respect of which any other party to the dispute has accepted the jurisdiction of the Court only in relation to or for the purposes of the dispute.

[and/or: **This Declaration does not apply to any dispute where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than *NUMBER* months prior to the filing of the application bringing the dispute before the Court.**]

For practical examples, see: Lithuania (21 September 2012; *Treaty Series* (volume forthcoming), No. I-50078); United Kingdom of Great Britain and Northern Ireland (5 July 2004; *Treaty Series*, vol. 2271, No. A-9370); Australia (21 March 2002; *Treaty Series*, vol. 2175, No. I-38245); Nigeria (29 April 1998; *Treaty Series*, vol. 2013, No. I-34544); Poland (25 March 1996; *Treaty Series*, vol. 1918, No. I-32728); and India (15 September 1974; *Treaty Series*, vol. 950, No. I-13546).

2. Final clauses

34. Final clauses or formal conditions are concerned with the commencement, duration and termination of the commitments, including reservations, made in a declaration. The principle of reciprocity is not applicable to formal conditions.

35. For the sake of clarity, a clause relating to the entry in force of the declaration should, ideally, be added.

This declaration is effective immediately [or: **as of** *DATE*].

For practical examples, see: Timor-Leste (21 September 2012; *Treaty Series* (volume forthcoming), No. I-50108); Australia (21 March 2002; *Treaty Series, vol. 2175, No. I-38245*); and Poland (25 March 1996; *Treaty Series, vol. 1918, No. I-32728*).

36. The declaring State may decide to specify the conditions under which reservations may be amended.

The Government of *STATE* also reserves the right, upon giving *NUMBER* months' notice [or: **at any time**], **by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any other reservations that may hereafter be added.**

For practical examples, see: Lithuania (21 September 2012; *Treaty Series (volume forthcoming), No. I-50078*); Nigeria (29 April 1998; *Treaty Series*, vol. 2013, No. I-34544) and United Kingdom (5 July 2004; *Treaty Series*, vol. 2271, No. A-9370).

37. Termination or withdrawal provisions are also typically included in the declaration.

This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless withdrawn not less than *NUMBER* months before the expiry of any such period by notice given to the Secretary-General of the United Nations.

[or: **This Declaration will remain in force until notice of withdrawal is given to the Secretary-General of the United Nations. Such withdrawal shall be subject to NUMBER months' notice.**]

[or: **This Declaration will remain in force until notice is given to the Secretary-General of the United Nations withdrawing the declaration, with effect as from the moment of such notification.**]

For practical examples, see: Lithuania (21 September 2012; *Treaty Series* (volume forthcoming), No. I-50078); Australia (21 March 2002; *Treaty Series*, vol. 2175, No. I-38245); Zaire[1] (7 February 1989; *Treaty Series*, vol. 1523, No. I-26437); Costa Rica (5 February 1973; *Treaty Series*, vol. 857, No. I-12294) and the Netherlands (1 August 1956; *Treaty Series*, vol. 248, No. I-3483).

3. Signature

38. The declaration must be signed by the Government of the declaring State. In practice, such declarations are signed by the Head of State, the Head of Government, the Minister for Foreign Affairs or the Permanent Representative of the State concerned to the United Nations in New York, depending on the domestic requirements.

Done in *LOCATION*, **the** *DATE*.

For the Government of *STATE*

SIGNATURE

For practical examples, see: Australia (21 March 2002; *Treaty Series*, vol. 2175, No. I-38245); Nigeria (29 April 1998; *Treaty Series*, vol. 2013, No. I-34544); and the Netherlands (1 August 1956; *Treaty Series*, vol. 248, No. I-3483).

III. Accepting the jurisdiction of the Court through treaties

A. General

39. Article 36, paragraph 1, of the Statute of the Court provides that the Court has jurisdiction in all matters specially stipulated in treaties and conventions that are in force on the date of the institution of proceedings. In such instances, the jurisdiction of the Court is treaty-based and the Court may be seized by means of a written (unilateral) application.

40. In this context, two categories of treaties may be identified:

(a) Bilateral or multilateral treaties dealing with a specific subject matter (for example, trade or air transport), and containing a clause conferring jurisdiction on the Court with regard to legal disputes relating to the interpretation or application of the treaty;

[1] Now the Democratic Republic of the Congo.

(b) Bilateral or multilateral treaties concluded specifically for the purpose of peaceful settlement of disputes, and providing for the jurisdiction of the Court over any legal dispute between the parties, irrespective of its subject matter.

41. Such treaties do not focus on a specific dispute, but provide for the jurisdiction of the Court either in specific classes of disputes between specific parties or in all disputes between specific parties.

42. Currently, over 300 multilateral and bilateral treaties are in force providing for the jurisdiction of the Court either in disputes relating to the interpretation or application of the treaty in question or in all disputes between the parties. A non-exhaustive list can be found on the website of the Court (see chap. VIII.B). Since its establishment in June 1945, about 40 per cent of the cases dealt with by the Court have been submitted on the basis of a treaty.

43. It should be noted that whenever a treaty confers jurisdiction on a tribunal instituted by the League of Nations or on the Permanent Court of International Justice, the International Court of Justice may in principle be seized of the matter (see Article 37 of the Statute of the Court). In 1932, in its *Collection of Texts Governing the Jurisdiction of the Court* (Permanent Court of International Justice, Series D, No. 6, 4th ed.) and subsequently in chapter X of its *Annual Reports* (see Permanent Court of International Justice, Series E, Nos. 8-16), the Permanent Court reproduced the relevant provisions of the instruments governing its jurisdiction.

B. Model clauses

1. Becoming a party to a treaty conferring jurisdiction on the Court over disputes relating to the interpretation or application of the treaty

44. States may decide to include in a bilateral or multilateral treaty on any subject (for example, trade or air transport) a clause conferring jurisdiction on the Court in respect of disputes relating to the interpretation or application of that same treaty ("jurisdictional clause" or "compromissory clause"). Typically, a treaty regime will be stronger if it provides for a solution in case direct negotiations between States parties fail to settle a treaty-related dispute. Jurisdictional clauses are fairly common, in particular in recent multilateral treaties.

(a) Bilateral treaty

45. In a bilateral treaty, the jurisdictional clause may refer to the treaty as a whole or be limited to specific provisions of the treaty. The jurisdictional clause usually provides for one or more other methods of peaceful settlement to be used before a dispute may be referred to the Court.

> **Any dispute relating to the interpretation or application of the present Treaty** [or: **of Article** *NUMBER* **of the present Treaty**] **which cannot be settled through negotiation may be referred for decision to the International Court of Justice in accordance with the Statute of that Court by either Party, unless the Parties agree to settlement by some other peaceful means.**

For practical examples of bilateral treaties, see: Agreement on Cooperation regarding the loan of objects belonging to their State Movable Cultural Heritage for exhibitions on each other's territory (Austria-Albania;

29 August 2012; *Treaty Series* (volume forthcoming), No. I-50324, article 6); Treaty on mutual assistance in criminal matters (Australia-Switzerland; 25 November 1991; *Treaty Series*, vol. 1856, No. I-31588, article 21); Treaty on extradition (Philippines-Switzerland; 19 October 1989; *Treaty Series*, vol. 1994, No. I-34124, article 17); Consular Convention (Belgium-United States of America; 2 September 1969; *Treaty Series*, vol. 924, No. I-13178, article 46); Treaty of amity, commerce and navigation (Japan-Philippines; 9 December 1960; *Treaty Series*, vol. 1001, No. I-14703, article VIII); and Treaty of friendship and good-neighbourliness (France-Libyan Arab Jamahiriya;[2] 10 August 1955; *Treaty Series*, vol. 1596, No. I-27943, article 8).

(b) Multilateral treaty

46. In a multilateral treaty, the jurisdictional clause may refer to the treaty as a whole or be limited to specific provisions of the treaty. The jurisdictional clause usually provides for one or more other methods of peaceful settlement to be used before a dispute may be referred to the Court. It may also be accompanied by a provision giving the parties the possibility of opting out of the jurisdictional clause regime by way of reservation.

1. Any dispute between Parties to the present Treaty relating to the interpretation or application of the present Treaty [or: of Article *NUMBER* of the present Treaty] which cannot be settled through negotiation may be referred for decision to the International Court of Justice in accordance with the Statute of that Court by any one of the parties to the dispute.

2. The parties to the dispute may agree to resort to other means of peaceful dispute settlement [or: to mediation and/or: to conciliation and/or: to arbitration] before submitting the dispute to the International Court of Justice.

3. Each Party may, at the time of signature, ratification, acceptance or approval of or accession to the present Treaty, declare that it does not consider itself bound by paragraph 1 of this article. The other Parties shall not be bound by paragraph 1 of this article with respect to any Party that has made such a reservation.

4. Any Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the *DEPOSITARY*.

For practical examples of multilateral treaties, see: International Convention for the Protection of All Persons from Enforced Disappearance (20 December 2006; *Treaty Series*, vol. 2716, No. I-48088, article 42); United Nations Convention against Corruption (31 October 2003; *Treaty Series*, vol. 2349, No. I-42146, article 66); Convention on the Reduction of Statelessness (30 August 1961; *Treaty Series*, vol. 989, No. I-14458, article 14); and Convention relating to the Status of Refugees (28 July 1951; *Treaty Series*, vol. 189, No. I-2545, article 38).

[2] Now Libya.

2. Becoming party to a treaty providing for the jurisdiction of the Court in all legal disputes between the parties

47. States may become party to existing multilateral treaties on the settlement of disputes providing for the jurisdiction of the Court, such as the European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646), the Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912) or the American Treaty on Pacific Settlement (Pact of) (30 April 1948; *Treaty Series*, vol. 30, No. I-449).

48. States may also wish to negotiate new multilateral or bilateral treaties on the settlement of disputes providing for the jurisdiction of the Court in all disputes between the parties.

49. It should be noted that the conferral of jurisdiction on the Court to adjudicate all disputes between the parties may also be incorporated into multilateral or bilateral treaties that are not dedicated solely to the peaceful settlement of disputes. For instance, a peace treaty can include a chapter about the peaceful settlement of disputes and record the agreement of the parties that they accept the jurisdiction of the Court in respect of all disputes (not only the disputes related to the interpretation or application of the peace treaty).

50. Treaties (multilateral or bilateral) providing for the jurisdiction of the Court in all disputes between the parties are usually composed of the following elements: title, preamble, conferral of jurisdiction, procedural issues, general dispositions, final clauses and signatures.

(a) Title

51. The title of a treaty for the peaceful settlement of disputes should mention the object of the treaty; bilateral treaties should also designate the parties.

Treaty for the peaceful settlement of disputes [between *STATE A* **and** *STATE B*]

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646) and Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912).

For practical examples of bilateral treaties, see: Convention concerning judicial settlement (Greece-Sweden; 11 December 1956; *Treaty Series*, vol. 299, No. I-4316) and Treaty for the pacific settlement of disputes (Brazil-Venezuela; 30 March 1940; *Treaty Series*, vol. 51, No. II-195).

(b) Preamble

52. In the preamble, the parties to the treaty are mentioned. They express their intention that disputes between the parties be settled peacefully.

The Governments signatory to the present Treaty [or: The Government of *STATE_A* **and the Government of** *STATE_B*], **hereinafter referred to as the "Parties";**

Resolved to settle by peaceful means any disputes which may arise between them;

Being desirous likewise of availing themselves for that purpose of the facilities offered by the International Court of Justice, hereinafter referred to as the "Court";

Have agreed as follows:

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646).

For practical examples of bilateral treaties, see: Convention concerning judicial settlement (Greece-Sweden; 11 December 1956; *Treaty Series*, vol. 299, No. I-4316) and Treaty of non-aggression, conciliation, arbitration and judicial settlement (Colombia-Venezuela; 17 December 1939; *Treaty Series*, vol. 1257, No. II-896).

(c) Conferral of jurisdiction

53. The clause conferring jurisdiction on the Court is the central element of the treaty. Reference is often made to the four categories of disputes listed in Article 36, paragraph 2, of the Statute of the Court. The clause may provide that the parties shall attempt to conclude a special agreement before seizing the Court unilaterally.

All international legal disputes which may arise between the Parties[, including in particular those concerning:

(a) the interpretation of a treaty,

(b) any question of international law,

(c) the existence of any fact which, if established, would constitute a breach of an international obligation or

(d) the nature or extent of the reparation to be made for the breach of an international obligation,]

may be referred for decision to the International Court of Justice in accordance with the Statute of that Court by any one of the parties to the dispute [or: **may be referred to the International Court of Justice. The Parties shall, in each case, conclude a special agreement clearly defining the subject of the dispute and any other conditions agreed between the Parties. If the special agreement is not concluded within** *NUMBER* **months from the date of the request for judicial settlement made by one of the Parties, any Party may refer the dispute for decision to the International Court of Justice in accordance with the Statute of that Court**].

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, article 1); Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, article 17); and American Treaty on Pacific Settlement (Pact of Bogota; 30 April 1948; *Treaty Series*, vol. 30, vol. I-449, article XXXI).

For practical examples of bilateral treaties, see: Treaty for conciliation, judicial settlement and arbitration (United Kingdom-Switzerland; 7 July 1965;

Treaty Series, vol. 605, No. I-8765, article 14); Convention concerning judicial settlement (Greece-Sweden; 11 December 1956; *Treaty Series*, vol. 299, No. 4316, articles 1-3); Treaty of Friendship (Philippines-Switzerland; 30 August 1956; *Treaty Series*, vol. 293, No. I-4284, article 2); Agreement concerning conciliation and judicial settlement (Italy-Brazil; 24 November 1954; *Treaty Series*, vol. 284, No. I-4146, articles 16-17); and Treaty of Friendship (Thailand-Indonesia; 3 March 1954; *Treaty Series*, vol. 213, No. I-2893, article VI).

54. The parties may nevertheless decide to exclude some categories of disputes from the jurisdiction of the Court. One or more of the following limitations may be included in the treaty.

> **The provisions of the present Treaty shall not apply to disputes relating to facts or situations that predate the entry into force of the present Treaty between the parties to the dispute.**
>
> **The provisions of the present Treaty shall not apply to disputes concerning questions that under international law are exclusively within the domestic jurisdiction of States. If the Parties are not in agreement as to whether the dispute concerns a matter of domestic jurisdiction, this preliminary question shall be submitted to the Court at the request of any of the Parties.**
>
> **The provisions of the present Treaty shall not apply to disputes which the Parties have agreed or may agree to submit to another procedure of peaceful settlement. Nevertheless, in respect of disputes falling within the scope of the present Treaty, the Parties shall refrain from invoking as between themselves agreements which do not provide for a procedure entailing binding decisions.**

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, articles 27-28) and Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, article 29).

For practical examples of bilateral treaties, see: Treaty for conciliation, judicial settlement and arbitration (United Kingdom-Switzerland; 7 July 1965; *Treaty Series*, vol. 605, No. I-8765, article 28) and Treaty of Friendship, Conciliation and Judicial Settlement (Turkey-Italy; 24 March 1950; *Treaty Series*, vol. 96, No. I-1338, article 3).

55. The treaty may clarify the relationship among the various means of accepting the jurisdiction of the Court, in order to make sure that access to the Court remains as open as possible.

> **Nothing in the present Treaty shall be construed as limiting other undertakings by which the Parties have accepted or may accept the jurisdiction of the Court for the settlement of disputes.**

For a practical example of a multilateral treaty, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, article 2).

56. The relationship between accepting the jurisdiction of the Court and other methods of peaceful dispute settlement, such as mediation, conciliation or arbitration, may also be clarified in the treaty.

> **The parties to a dispute may agree to resort to other means of peaceful dispute settlement** [or: **to mediation**] [and/or: **to conciliation**] [and/or: **to arbitration**] **before submitting the dispute to the Court**.

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, article 2) and Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, articles 17-20).

57. It is useful to confirm, in a treaty conferring jurisdiction on the Court, that the Court has jurisdiction to rule on the interpretation and application of the treaty itself.

> **Disputes relating to the interpretation or application of the present Treaty** [, **including those concerning the classification of disputes and the scope of reservations,**] **may be referred for decision to the International Court of Justice, in accordance with the Statute of that Court, by any one of the parties to the dispute**.

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, article 38); Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, article 41); and American Treaty on Pacific Settlement (Pact of Bogota) (30 April 1948; *Treaty Series*, vol. 30, No. I-449, article XXXIII).

For practical examples of bilateral treaties, see: Treaty for conciliation, judicial settlement and arbitration (United Kingdom-Switzerland; 7 July 1965; *Treaty Series*, vol. 605, No. I-8765, article 38); Agreement concerning conciliation and judicial settlement (Italy-Brazil; 24 November 1954; *Treaty Series*, vol. 284, No. I-4146, article 22); and Treaty of Friendship, Conciliation and Judicial Settlement (Turkey-Italy; 24 March 1950; *Treaty Series*, vol. 96, No. I-1338, article 24).

(d) Procedure

58. In contrast to special agreements (see para. 68), general treaties for the peaceful settlement of disputes do not focus on a particular dispute. Consequently, such treaties should not include precise undertakings concerning the procedure before the Court. They should leave it to the parties, once a dispute has arisen between them, to make use of the options available under the Statute of the Court and the Rules of Court. Some existing treaties mention certain procedural aspects, but merely as (legally unnecessary) references to the Statute of the Court.

> **The Statute of the Court shall apply.**

For practical examples of multilateral treaties, see: Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, article 34) and American Treaty on Pacific Settlement (Pact of Bogota) (30 April 1948; *Treaty Series*, vol. 30, No. I-449, article XXXVII).

59. Although the parties to a legal dispute submitted to the Court are legally bound to comply with the judgment of the Court, the treaty may refer to the binding effect and the practical execution of the judgment.

The Parties shall accept as final and binding upon them the judgment of the Court.

The Parties shall execute the judgment of the Court in its entirety and in good faith.

For a practical example of a multilateral treaty, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, article 39).

For practical examples of bilateral treaties, see: Treaty for conciliation, judicial settlement and arbitration (United Kingdom-Switzerland; 7 July 1965; *Treaty Series*, vol. 605, No. I-8765, article 32); Agreement concerning conciliation and judicial settlement (Italy-Brazil; 24 November 1954; *Treaty Series*, vol. 284, No. I-4146, article 19); and Treaty of Friendship, Conciliation and Judicial Settlement (Turkey-Italy; 24 March 1950; *Treaty Series*, vol. 96, No. I-1338, article 21).

(e) General dispositions and final clauses

60. General dispositions and final clauses may differ depending upon whether the treaty is bilateral or multilateral. In the present chapter, these two categories of treaties are dealt with separately.

i. Bilateral treaty

61. The final clauses of a bilateral treaty usually deal with its ratification, its entry into force and its registration with the Secretariat of the United Nations.

The present Treaty shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible in *LOCATION*. The present Treaty shall enter into force immediately upon the exchange of those instruments.

The present Treaty shall be registered by either Party with the Secretariat of the United Nations pursuant to Article 102 of the Charter of the United Nations.

For practical examples of bilateral treaties, see: Treaty for conciliation, judicial settlement and arbitration (United Kingdom-Switzerland; 7 July 1965; *Treaty Series*, vol. 605, No. I-8765, article 40); Treaty of Friendship (Philippines-Switzerland; 30 August 1956; *Treaty Series*, vol. 293, No. I-4284, article 9); Agreement concerning conciliation and judicial settlement (Italy-Brazil; 24 November 1954; *Treaty Series*, vol. 284, No. I-4146, article 23); and Treaty of Friendship (Thailand-Indonesia; 3 March 1954; *Treaty Series*, vol. 213, No. I-2893, article VII).

62. The treaty usually also specifies the conditions under which a denunciation may take place. Special attention needs to be given to the effect of a denunciation on the jurisdiction of the Court.

The present Treaty may be denounced by a Party only after the expiration of a period of *NUMBER* years from the date of its entry into force. Such

denunciation shall be subject to *NUMBER* months' notice, which shall be communicated to the other Party.

Denunciation shall not release the Party concerned from its obligations under the present Treaty in respect of disputes relating to facts or situations prior to the date of the notice referred to in the preceding paragraph. Such dispute shall, however, be submitted to the Court within a period of *NUMBER* year[s] from the said date.

For practical examples of bilateral treaties, see: Treaty for conciliation, judicial settlement and arbitration (United Kingdom-Switzerland; 7 July 1965; *Treaty Series*, vol. 605, No. I-8765, article 40); Treaty of Friendship (India-Philippines; 11 July 1952; *Treaty Series*, vol. 203, No. I-2741, article VII); and Treaty of Friendship, Conciliation and Judicial Settlement (Turkey-Italy; 24 March 1950; *Treaty Series*, vol. 96, No. I-1338, article 25).

ii. Multilateral treaty

63. The general dispositions and final clauses in a multilateral treaty deal with reservations, participation, entry into force, registration with the Secretariat of the United Nations and withdrawal.

64. The parties may choose to exclude the possibility of making reservations. If they decide that reservations should be possible, it is recommended to provide for a clear framework in the treaty defining which kinds of reservations are acceptable.

No reservations may be made to the present Treaty.

[or: **The Parties may only make reservations which exclude from the application of the present Treaty:**

(a) Disputes arising out of facts that predate the accession of any of the Parties making the reservation or of any other Party with which the said Parties may have a dispute;

(b) Disputes concerning questions which, under international law, are exclusively within the domestic jurisdiction of States; or

(c) Disputes concerning particular cases or clearly specified subject matter, such as territorial status, or disputes falling within clearly defined categories.

If one of the Parties has made a reservation, the other Parties may invoke the same reservation in regard to that Party.

Any reservations must be made at the time of deposit of the instruments of ratification or accession of the present Treaty.

A Party which has made reservations may, at any time, by a simple declaration to the *DEPOSITARY*, withdraw all or part of its reservations.]

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, articles 35-37); Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, article 39-40); and American Treaty on Pacific Settlement (Pact of Bogota) (30 April 1948; *Treaty Series*, vol. 30, No. I-449, articles LIV-LV).

65. The treaty should designate which States may sign the treaty. A treaty may provide for universal participation or limit participation to specified categories of States, for instance, members of international or regional organizations. Only States having access to the Court (see para. 7) are eligible.

The present Treaty shall be open to signature by Member States of the United Nations, by parties to the Statute of the Court and by any other State having access to the Court [or: **by the Member States of** *INTERNATIONAL_ORGANIZATION* **having access to the Court**].

The present Treaty shall be subject to ratification. Instruments of ratification shall be deposited with the *DEPOSITARY*.

The present Treaty shall enter into force on the date of the deposit of the second instrument of ratification. As regards any signatory ratifying subsequently, the present Treaty shall enter into force on the date of the deposit of its instrument of ratification.

The present Treaty shall be registered with the Secretariat of the United Nations, pursuant to Article 102 of the Charter of the United Nations, by the *DEPOSITARY*.

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, article 41); Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, articles 43-44, 47); and American Treaty on Pacific Settlement (Pact of Bogota) (30 April 1948; *Treaty Series*, vol. 30, No. I-449, articles LII-LIII, LVII).

66. The treaty usually specifies the conditions under which the parties may withdraw from the treaty, and, in such a case, it is useful to clarify the impact of a withdrawal on the jurisdiction of the Court.

A Party may withdraw from the present Treaty only after the expiration of a period of *NUMBER* **years from the date of its entry into force for the Party in question. Such withdrawal shall be subject to** *NUMBER* **months' notice, which shall be communicated to the** *DEPOSITARY*, **which shall inform the other Parties.**

Withdrawal shall not release the Party concerned from its obligations under the present Treaty in respect of disputes relating to facts or situations prior to the date of the notice referred to in the preceding paragraph. Such disputes shall, however, be submitted to the Court within a period of *NUMBER* **year**[s] **from the said date**.

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646, article 40); Revised General Act for the Pacific Settlement of International Disputes (28 April 1949; *Treaty Series*, vol. 71, No. I-912, article 45); and American Treaty on Pacific Settlement (Pact of Bogota) (30 April 1948; *Treaty Series*, vol. 30, No. I-449, article LVI).

(f) Signatures

67. Finally, the treaty must be signed by the Governments of the respective States. Concerning the person empowered to sign the treaty, see article 7 of the Vienna Convention on the Law of Treaties of 23 May 1969.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed the present Treaty.

Done in *NUMBER* **originals in** *LOCATION*, **the** *DATE*, **in** *LANGUAGE_A* **[and** *LANGUAGE_B*, **both texts being equally authoritative]**.

For the Government of *STATE_A* **For the Government of** *STATE_B*

SIGNATURE_A *SIGNATURE_B*

For practical examples of multilateral treaties, see: European Convention for the Peaceful Settlement of Disputes (29 April 1957; *Treaty Series*, vol. 320, No. I-4646) and American Treaty on Pacific Settlement (Pact of Bogota) (30 April 1948; *Treaty Series*, vol. 30, No. I-449).

For practical examples of bilateral treaties, see: Treaty for conciliation, judicial settlement and arbitration (United Kingdom-Switzerland; 7 July 1965; *Treaty Series*, vol. 605, No. I-8765) and Treaty of Amity (China-Philippines; 18 April 1947; *Treaty Series*, vol. 11, No. I-175).

IV. Referring a specific dispute to the Court through a special agreement

A. General

68. According to Article 36, paragraph 1, of the Statute of the Court, the jurisdiction of the Court comprises all cases which the parties refer to it. In such cases, the parties express their consent on an ad hoc basis by means of a special agreement requesting the Court to adjudicate a specific and defined dispute. Jurisdiction is conferred on the Court upon notification to the Court of this special agreement.

69. Since its establishment in 1945, some 17 cases (about 15 per cent of the total number of cases) have been submitted to the Court by means of a special agreement. A list of those cases can be found on the website of the Court (see chap. VIII.B). Most of the cases have concerned legal disputes relating to territorial sovereignty or the delimitation of land or maritime boundaries.

70. When a special agreement is concluded and notified to the Court, the Court is seized by all the parties to the dispute. In principle, as the parties have expressed a genuine interest in the Court settling their dispute, no preliminary objections concerning its jurisdiction are raised, nor are problems related to the judgment's execution to be expected.

B. Model clauses

71. A special agreement is essentially a treaty the sole purpose of which is to refer a specific dispute to the Court. As with any other treaty, it is usually composed of the following elements: title; preamble; conferral of jurisdiction; definition of the dispute or formulation of a question; procedural issues; general dispositions; final clauses; and signatures.

1. Title

72. The title of the special agreement expresses its purpose, which is the submission to the Court of a particular dispute between States, and designates the parties.

> **Special agreement for the submission to the International Court of Justice of the dispute between** *STATE_A* **and** *STATE_B* **concerning** *DISPUTE_OBJECT*

For practical examples, see: Special Agreement for submission to the International Court of Justice of the dispute between Malaysia and Indonesia concerning sovereignty over Pulau Ligitan and Pulau Sipadan (31 May 1997; *Treaty Series*, vol. 2023, No. I-34922) and Special Agreement for the submission to the International Court of Justice of a difference between the Kingdom of the Netherlands and the Federal Republic of Germany concerning the delimitation, as between the Kingdom of the Netherlands and the Federal Republic of Germany, of the continental shelf in the North Sea (2 February 1967; *Treaty Series*, vol. 606, No. I-8779).

2. Preamble

73. In the preamble, the parties to the special agreement are mentioned. The parties generally recognize the existence of a dispute and express their intention that it be settled by the Court. The preamble may contain additional elements, for instance, a reference to the useful role that a third party has played to facilitate a peaceful settlement or to the positive steps taken towards the resolution of the dispute.

> **The Government of** *STATE_A* **and the Government of** *STATE_B*, **hereinafter referred to as the "Parties";**
>
> **Considering that a dispute has arisen between them regarding** *DISPUTE_OBJECT*;
>
> **Desiring that this dispute be settled by the International Court of Justice, hereinafter referred to as the "Court";**
>
> **Have agreed as follows:**

For practical examples, see: Special Agreement for submission to the International Court of Justice of the dispute between Malaysia and Singapore concerning sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (6 February 2003; *Treaty Series*, vol. 2216, No. I-39388); Special Agreement between the Republic of Botswana and the Republic of Namibia to submit to the International Court of Justice the dispute existing between the two States concerning the boundary around Kasikili/Sedudu Island and the legal status of the Island (15 February 1996; *Kasikili/Sedudu Island* case, available at the website of the Court:

www.icj-cij.org); and Special Agreement for submission to the International Court of Justice of the differences concerning the Gabcikovo-Nagymaros Project (Hungary-Slovakia; 7 April 1993; *Treaty Series*, vol. 1725, No. I-30113).

3. Conferral of jurisdiction

74. In the interests of clarity, it is recommended that States expressly confer jurisdiction on the Court in a specific article of the special agreement.

> **The Parties submit the dispute referred to in the present special agreement to the International Court of Justice, under the terms of Article 36, paragraph 1, of its Statute.**

For practical examples, see: Special Agreement to seize the International Court of Justice concerning the frontier dispute between Burkina Faso and the Republic of the Niger (24 February 2009; *Treaty Series* vol. 2707, No. I-47966, article 1); Special Agreement for submission to the International Court of Justice of the dispute between Malaysia and Indonesia concerning sovereignty over Pulau Ligitan and Pulau Sipadan (31 May 1997; *Treaty Series*, vol. 2023, No. I-34922, article 1); and Special Agreement for submission to the International Court of Justice of the differences concerning the Gabcikovo-Nagymaros Project (Hungary-Slovakia; 7 April 1993; *Treaty Series*, vol. 1725, No. I-30113, article 1).

4. Definition of the dispute

75. The definition of the dispute, or the formulation of the legal question that the Court is asked to decide, is a key element of any special agreement. It determines the subject matter of the jurisdiction of the Court (jurisdiction ratione materiae) agreed by the parties, beyond which the Court cannot venture. In its judgment, the Court will answer the question submitted by the parties. Special care is therefore called for in formulating this part of the special agreement. The range of possible questions that can be presented to the Court is, of course, very broad. The parties may ask the Court to provide a final answer to their dispute. They may, on the other hand, ask the Court to simply establish which rules of international law apply to the dispute.

> **The Court is requested to decide whether** *QUESTION*.
>
> [or: **The Court is requested to determine what principles and rules of international law are applicable to** *DISPUTE_OBJECT*.]

For practical examples, see: Special Agreement for submission to the International Court of Justice of the differences concerning the Gabcikovo-Nagymaros Project (Hungary-Slovakia; 7 April 1993; *Treaty* Series, vol. 1725, No. I-30113, article 2) and Special Agreement for the submission to the International Court of Justice of a difference between the Kingdom of the Netherlands and the Federal Republic of Germany concerning the delimitation, as between the Kingdom of the Netherlands and the Federal Republic of Germany, of the continental shelf in the North Sea (2 February 1967; *Treaty Series*, vol. 606, No. I-8779, article 1).

76. As most special agreements to date have concerned legal disputes relating to territorial sovereignty or the delimitation of land or maritime boundaries, it is worth

mentioning, in the present handbook, model clauses for those specific categories of disputes (see paras. 77-79).

77. Legal disputes concerning claims to sovereignty over territory the boundaries of which are not disputed by the parties, such as claims to sovereignty over islands, may be brought before the Court.

> **The Court is requested to determine whether the sovereignty over** *NAMED_AREA* **belongs to** *STATE_A* **or** *STATE_B*.

For practical examples, see: Special Agreement for submission to the International Court of Justice of the dispute between Malaysia and Singapore concerning sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (6 February 2003; *Treaty Series*, vol. 2216, No. I-39388, article 2) and Arrangement to submit to the International Court of Justice the difference between the Kingdom of Belgium and the Kingdom of the Netherlands concerning sovereignty over certain lots situated along the Belgian-Netherlands frontier (7 March 1957; *Treaty Series*, vol. 282, No. I-4100, article I).

78. The question of the determination of the course of a boundary may be submitted to the Court in cases where the parties disagree about the precise course of the frontier between them.

> **The Court is requested to determine the course of the boundary between** *STATE_A* **and** *STATE_B* **in the disputed area of** *NAMED_AREA* [or: **in the disputed area extending from** *LOCATION* **up to** *LOCATION*].

For practical examples, see: Special Agreement to seize the International Court of Justice concerning the frontier dispute between Burkina Faso and the Republic of the Niger (24 February 2009; *Treaty Series*, vol. 2707, No. I-47966, article 2); Special Agreement for Submission to the International Court of Justice of the territorial dispute between the Republic of Benin and the Republic of the Niger, article 2 (15 June 2001; available at the website of the Court: www.icj-cij.org; for an English version of the case, see the judgment of the Court in the *Frontier Dispute* case, available at the website of the Court); Special Agreement for the submission to a Chamber of the International Court of Justice of the frontier dispute between the two States (Mali-Upper Volta; 16 September 1983; *Treaty Series*, vol. 1333, No. I-22374, article I); and Special Agreement to submit to a Chamber of the International Court of Justice the delimitation of the maritime boundary in the Gulf of Maine area (Canada-United States of America; 29 March 1979; *Treaty Series*, vol. 1288, No. I-21238, article II).

79. Instead of requesting the Court to definitively solve a dispute relating to sovereignty or the delimitation of boundaries, the parties may request the Court to limit its judgment to the determination of the law applicable to the issue.

> **The Court is requested to determine what principles and rules of international law are applicable to the delimitation as between the Parties of the areas of** *NAMED_AREA* **which appertain to each of them.**
>
> **[The Court is further requested to clarify the practical method for the application of these principles and rules of international law in the specific situation, so as to enable the Parties to delimit the respective areas of** *NAMED_AREA* **without any difficulty.]**

For practical examples, see: Special Agreement for the submission to the International Court of Justice of the question of the continental shelf between the two countries, article 1 (Libyan Arab Jamahiriya[3]-Tunisia; 10 June 1977; *Treaty Series*, vol. 1120, No. I-17408) and Special Agreement for the submission to the International Court of Justice of a difference between the Kingdom of the Netherlands and the Federal Republic of Germany concerning the delimitation, as between the Kingdom of the Netherlands and the Federal Republic of Germany, of the continental shelf in the North Sea (2 February 1967; *Treaty Series*, vol. 606, No. I-8779, article 1).

80. In some exceptional instances, the parties may agree on the existence of a dispute and on its submission to the Court, but are unable to agree on the exact definition of the dispute or on the concrete question to be adjudicated by the Court. In order to avoid a deadlock, the parties may conclude a so-called "framework agreement". The framework agreement authorizes each party, at discretion or subject to certain conditions, to unilaterally seize the Court of the dispute. It is then for the Court to determine the exact questions to be resolved, on the basis of the parties' submissions, and to answer those questions. The parties should nevertheless define the object of the dispute as precisely as possible in the framework agreement.

> **Owing to the impossibility of the representatives of the Parties reaching an agreement on the exact definition of the dispute concerning** *DISPUTE_OBJECT*, **the Parties agree that the Court may be unilaterally seized by one of the Parties [if no political settlement of the dispute has been reached before** *DATE*], **without such recourse being regarded as an unfriendly act by the other Party**.

For practical examples, see: Agreement between Colombia and Peru of 31 August 1949, article 2 (available at the website of the Court: www.icj-cij.org; for an English translation, see the judgment of the Court in the *Colombian-Peruvian asylum case*) and Framework agreement on the peaceful settlement of the territorial dispute between the Great Socialist People's Libyan Arab Jamahiriya and the Republic of Chad, article 2 (31 August 1989; see *Territorial Dispute* case, available at the website of the Court: www.icj-cij.org).

5. Procedure

81. Procedure is governed by the Statute of the Court and the Rules of Court. However, if the parties so wish, they may include some procedural elements in the special agreement. Within the limits prescribed by the Statute of the Court and the Rules of Court, the parties may give indications about the composition of the Court, the written pleadings, the oral arguments, the language of the proceedings and the binding effect of the judgment.

82. According to Article 26 of the Statute of the Court, a chamber may be formed for dealing with a particular case if the parties so request.

> **The Parties shall request that the case be heard and determined by a chamber of the Court, composed of** *NUMBER* **persons and to be constituted after consultation with the Parties, pursuant to Article 26 and Article 31 of the Statute of the Court.**

[3] Now Libya.

For practical examples, see: Agreement to submit the frontier dispute concerning land, islands and maritime areas between the two States to the decision of the International Court of Justice (El Salvador-Honduras; 24 May 1986; *Treaty Series*, vol. 1437, No. I-24358, article 1); Special Agreement for the submission to a Chamber of the International Court of Justice of the frontier dispute between the two States (Mali-Upper Volta; 16 September 1983; *Treaty Series*, vol. 1333, No. I-22374, article II); and Special Agreement to submit to a Chamber of the International Court of Justice the delimitation of the maritime boundary in the Gulf of Maine area (Canada-United States of America; 29 March 1979; *Treaty Series*, vol. 1288, No. I-21238, article I).

83. If the Court includes a judge of the nationality of one of the parties, any other party may choose a person to sit as judge (see Article 31, paragraph 2, of the Statute of the Court). If the Court includes no judge of the nationality of the parties, each of the parties may proceed to choose a judge (see Article 31, paragraph 3, of the Statute of the Court). Consequently, a special agreement may address the issue of such judges ad hoc.

Each of the Parties may exercise its right under Article 31 of the Statute of the Court to choose a person to sit as judge ad hoc. A Party which chooses to exercise this right shall notify the other Party in writing prior to exercising it.

For practical examples, see: Special Agreement between the Republic of Botswana and the Republic of Namibia to submit to the International Court of Justice the dispute existing between the two States concerning the boundary around Kasikili/Sedudu Island and the legal status of the Island, article VIII (15 February 1996; *Kasikili/Sedudu Island* case, available at the website of the Court: www.icj-cij.org) and Agreement to submit the frontier dispute concerning land, islands and maritime areas between the two States to the decision of the International Court of Justice (El Salvador-Honduras; 24 May 1986; *Treaty Series*, vol. 1437, No. I-24358, article 1).

84. According to Article 46 of the Rules of Court, the number and order of the pleadings shall be governed by the provisions of the special agreement, unless the Court, after ascertaining the views of the parties, decides otherwise. In its Practice Direction I, the Court encourages the parties to include in their special agreement provisions as to the number and order of pleadings and to opt for successive submission of written pleadings, with one party filing its pleading after the other.

Without prejudice to any question as to burden of proof, the Parties shall request the Court to authorize the following procedure with regard to the written pleadings:

(a) A memorial of *STATE_A* to be submitted within *NUMBER* months of the notification of the present special agreement to the Court;

(b) A counter-memorial of *STATE_B* to be submitted within *NUMBER* months of delivery of the *STATE_A* memorial;

(c) A reply of *STATE_A* followed by a rejoinder of *STATE_B* to be delivered within such times as the Court may order.

For practical examples, see: Arrangement to submit to the International Court of Justice the difference between the Kingdom of Belgium and the Kingdom of the

Netherlands concerning sovereignty over certain lots situated along the Belgian-Netherlands frontier (7 March 1957; *Treaty Series*, vol. 282, No. I-4100, article II) and Special Agreement for submission to the International Court of Justice of differences between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning sovereignty over the Minquiers and Ecrehos islets (29 December 1950; *Treaty Series*, vol. 118, No. I-1603, article II).

85. As regards the oral argument, Article 58, paragraph 2, of the Rules of Court provides that the order in which the parties will be heard shall be settled by the Court after the views of the parties have been ascertained.

> **The Parties shall agree, with approval from the Court, on the order in which they are to be heard during the oral proceedings. If the Parties fail to agree, the order shall be prescribed by the Court. The order of speaking shall be without prejudice to any question of the burden of proof.**

For practical examples, see: Special Agreement to seize the International Court of Justice concerning the frontier dispute between Burkina Faso and the Republic of the Niger (24 February 2009; *Treaty Series*, vol. 2707, No. I-47966, article 4) and Special Agreement for submission to the International Court of Justice of the dispute between Malaysia and Indonesia concerning sovereignty over Pulau Ligitan and Pulau Sipadan (31 May 1997; *Treaty Series*, vol. 2023, No. I-34922, article 3).

86. Article 39 of the Statute of the Court and Article 51 of the Rules of Court provide that the parties may agree that the proceedings be conducted in only one of the official languages of the Court. In the absence of an agreement, each party may use the language that it prefers.

> **The Parties agree that their written pleadings and their oral argument shall be presented in the English or French languages** [or: **in the English language**] [or: **in the French language**].

For practical examples, see: Special Agreement to seize the International Court of Justice concerning the frontier dispute between Burkina Faso and the Republic of the Niger (24 February 2009; *Treaty Series* vol. 2707, No. I-47966, article 5) and Agreement to submit the frontier dispute concerning land, islands and maritime areas between the two States to the decision of the International Court of Justice (El Salvador-Honduras; 24 May 1986; *Treaty Series*, vol. 1437, No. I-24358, article 4).

87. The parties may agree on special undertakings, in particular to avoid any act which could jeopardize the peaceful resolution of the dispute or threaten peace between the parties. They may also agree on temporary arrangements for the period pending judgment. That being said, from the moment of the notification of the special agreement to the Court, any party may file a request for provisional measures (Article 73, para. 1 of the Rules of Court).

> **Pending the judgment of the Court, the Parties undertake to** *SPECIAL_UNDERTAKINGS*.

For practical examples, see: Special Agreement to seize the International Court of Justice concerning the frontier dispute between Burkina Faso and the Republic of the Niger (24 February 2009; *Treaty Series* vol. 2707, No. I-47966, article 10) and Special Agreement for Submission to the International Court of Justice of the territorial dispute between the Republic of Benin and the Republic of the Niger

(15 June 2001; article 10; for an English translation, see the judgment of the Court in the *Frontier Dispute* case).

88. Although the parties to a legal dispute submitted before the Court are legally bound to comply with the judgment of the Court (see Article 94, para. 1, of the Charter of the United Nations), the special agreement may refer to the binding effect and the practical execution of the judgment.

> **The Parties shall accept as final and binding upon them the judgment of the Court.**
>
> **The Parties shall execute the judgment of the Court in its entirety and in good faith.**
>
> **Immediately after the transmission of the judgment, the Parties shall enter into negotiations on the modalities for its execution. If the Parties are unable to reach an agreement within *NUMBER* months, any one of the Parties may request the Court to render an additional judgment to determine the modalities for executing its judgment.**

For practical examples, see: Special Agreement to seize the International Court of Justice concerning the frontier dispute between Burkina Faso and the Republic of the Niger (24 February 2009; *Treaty Series* vol. 2707, No. I-47966, article 7); Special Agreement for submission to the International Court of Justice of the differences concerning the Gabcikovo-Nagymaros Project (Hungary-Slovakia; 7 April 1993; *Treaty Series*, vol. 1725, No. I-30113, article 5); and Special Agreement for the submission to a Chamber of the International Court of Justice of the frontier dispute between the two States (Mali-Upper Volta; 16 September 1983; *Treaty Series*, vol. 1333, No. I-22374, article IV).

6. General dispositions and final clauses

89. The final clauses of the special agreement usually deal with its entry into force, its registration with the Secretariat of the United Nations and its notification to the Court.

> **The present Special Agreement shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible in *LOCATION*. The present Special Agreement shall enter into force immediately upon the exchange of those instruments.**
>
> **The present Special Agreement shall be registered with the Secretariat of the United Nations, pursuant to Article 102 of the Charter of the United Nations, by any one of the Parties.**
>
> **Upon the entry into force of the present Special Agreement, it shall be notified to the Court under Article 40 of the Statute of the Court by any one of the Parties [or: by a joint letter of the Parties]. If such notification is not effected within one month from the entry into force of the present special agreement, any one of the Parties may proceed with its notification to the Court.**

For practical examples, see: Special Agreement to seize the International Court of Justice concerning the frontier dispute between Burkina Faso and the Republic of the Niger (24 February 2009; *Treaty Series,* vol. 2707, No. I-47966, articles 8-9);

Agreement to submit the frontier dispute concerning land, islands and maritime areas between the two States to the decision of the International Court of Justice (El Salvador-Honduras; 24 May 1986; *Treaty Series*, vol. 1437, No. I-24358, articles 7-8); and Special Agreement for the submission to a Chamber of the International Court of Justice of the frontier dispute between the two States (Mali-Upper Volta; 16 September 1983; *Treaty Series*, vol. 1333, No. I-22374, article V).

7. Signatures

90. Finally, the special agreement must be signed by the Governments of the States involved in the dispute. Concerning the person empowered to sign the special agreement, see article 7 of the Vienna Convention on the Law of Treaties of 23 May 1969.

> **In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed the present Special Agreement.**
>
> **Done in** *NUMBER* **originals in** *LOCATION*, **the** *DATE*, **in** *LANGUAGE_A* **[and** *LANGUAGE_B*, **both texts being equally authoritative].**
>
> **For the Government of** *STATE_A* **For the Government of** *STATE_B*
>
> *SIGNATURE_A* *SIGNATURE_B*

For practical examples, see: Special Agreement for submission to the International Court of Justice of the dispute between Malaysia and Indonesia concerning sovereignty over Pulau Ligitan and Pulau Sipadan (31 May 1997; *Treaty Series*, vol. 2023, No. I-34922) and Special Agreement to submit to a Chamber of the International Court of Justice the delimitation of the maritime boundary in the Gulf of Maine area (Canada-United States of America; 29 March 1979; *Treaty Series*, vol. 1288, No. I-21238).

V. Accepting the jurisdiction of the Court after its seizure (forum prorogatum)

91. The methods described in chapter II (declarations), chapter III (treaties) and chapter IV (special agreements) relate to situations in which States have accepted the jurisdiction of the Court prior to the moment the Court is seized with respect to a particular legal dispute.

92. However, a State may unilaterally file an application to institute proceedings before the Court without having secured the consent of the respondent State. At this stage, the Court has no jurisdiction to deal with the application. According to Article 38, paragraph 5, of the Rules of Court, the Court transmits the application to the potential respondent State. The Court cannot take any other action unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case. That State may accept the jurisdiction of the Court by express declaration, but also through successive conduct implying agreement, for example, by filing a written pleading or appearing before the Court. In such cases, the Court acquires jurisdiction and may proceed to adjudicate the dispute (forum prorogatum).

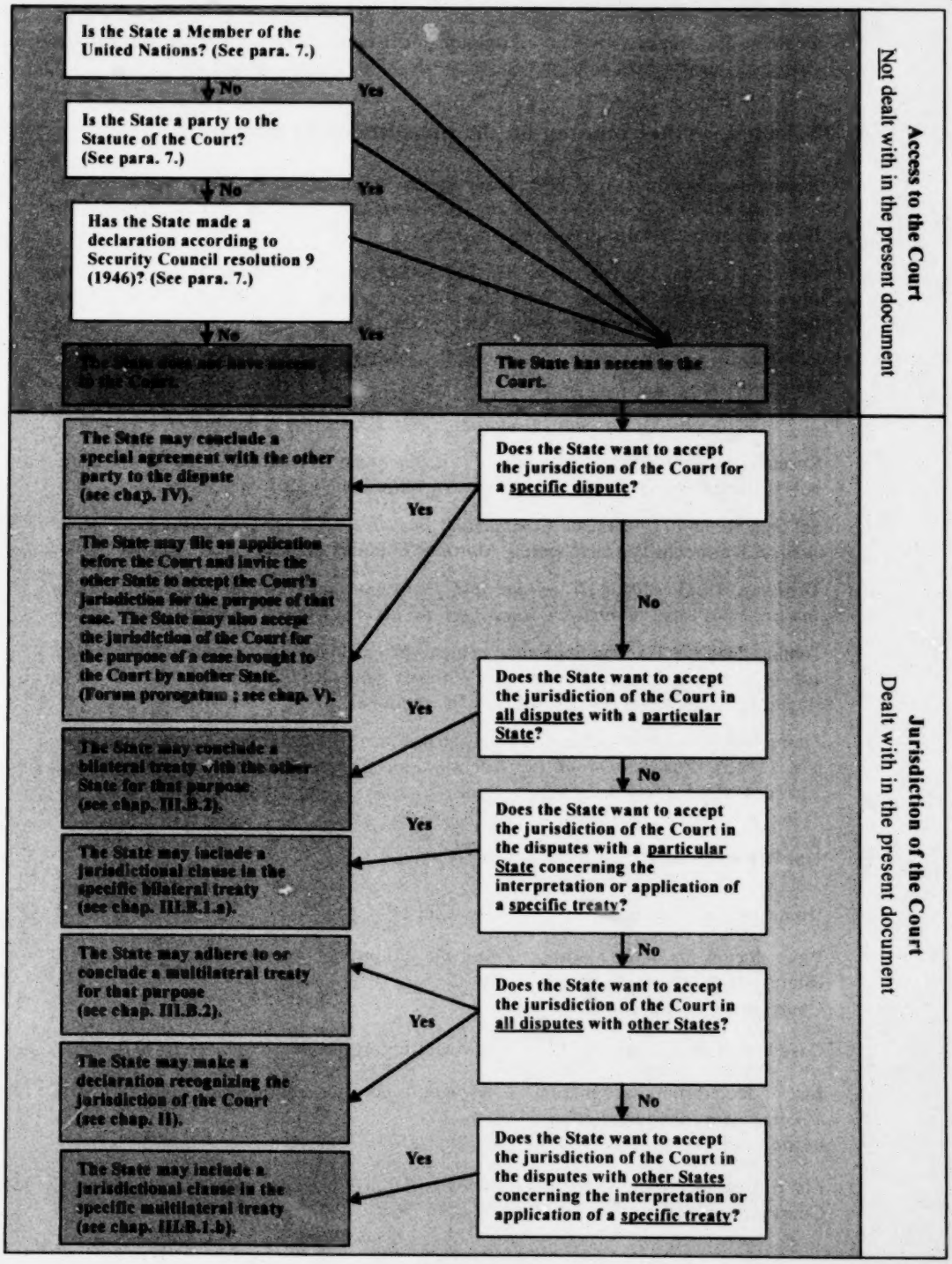
93. The doctrine of forum prorogatum has been invoked in about 10 per cent of cases since the establishment of the Court in 1945. However, the potential respondent State accepted the jurisdiction of the Court in only two instances: *Certain Questions of Mutual Assistance in Criminal Matters* (Djibouti v. France) and *Certain Criminal Proceedings in France* (Republic of the Congo v. France), both available at the website of the Court: www.icj-cij.org.

VI. Secretary-General's Trust Fund

94. The Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice was established in 1989 by the Secretary-General.

95. The Trust Fund financially assists States for expenses incurred in connection with disputes submitted to the Court. It applies to situations in which the Court's jurisdiction or the admissibility of the application is not (or no longer) contested (there is no preliminary objection, or any preliminary objection has been withdrawn or rejected). The Trust Fund may also assist States in the execution of a judgment of the Court (see A/59/372).

VII. Flow chart


Access to the Court
Not dealt with in the present document
Is the State a Member of the United Nations? (See para. 7.)
No
Yes
Is the State a party to the Statute of the Court? (See para. 7.)
No
Yes
Has the State made a declaration according to Security Council resolution 9 (1946)? (See para. 7.)
No
Yes
The State has access to the Court.
Jurisdiction of the Court
Dealt with in the present document
Does the State want to accept the jurisdiction of the Court for a specific dispute?
Yes
The State may conclude a special agreement with the other party to the dispute (see chap. IV).
No
Does the State want to accept the jurisdiction of the Court in all disputes with a particular State?
Yes
The State may file an application before the Court and invite the other State to accept the Court's jurisdiction for the purpose of that case. The State may also accept the jurisdiction of the Court for the purpose of a case brought to the Court by another State. (Forum prorogatum ; see chap. V).
No
Does the State want to accept the jurisdiction of the Court in the disputes with a particular State concerning the interpretation or application of a specific treaty?
Yes
The State may conclude a bilateral treaty with the other State for that purpose (see chap. III.B.2).
No
Does the State want to accept the jurisdiction of the Court in all disputes with other States?
Yes
The State may include a jurisdictional clause in the specific bilateral treaty (see chap. III.B.1.a).
No
Does the State want to accept the jurisdiction of the Court in the disputes with other States concerning the interpretation or application of a specific treaty?
Yes
The State may adhere to or conclude a multilateral treaty for that purpose (see chap. III.B.2).
The State may make a declaration recognizing the jurisdiction of the Court (see chap. II).
The State may include a jurisdictional clause in the specific multilateral treaty (see chap. III.B.1.b).

VIII. Practical information

96. For all information concerning the Court, please contact the Registrar of the Court in The Hague (www.icj-cij.org/homepage/contact.php) or the United Nations Office of Legal Affairs in New York (http://legal.un.org/ola/contact.aspx).

A. Selected further reading on the jurisdiction of the Court

Alexandrov, Stanimir A. (1995). *Reservations in Unilateral Declarations Accepting the Compulsory Jurisdiction of the International Court of Justice*. Dordrecht/ Boston/London: Martinus Nijhoff Publishers.

Casado Raigon, Rafael (1987). *La jurisdiccion contenciosa de la Corte Internacional de Justicia, Estudio de las reglas de su competencia*. Cordoba: Servicio de Publicaciones de la Universidad de Cordoba.

Kolb, Robert (2013). *The International Court of Justice*. Oxford/Portland: Oregon: Hart Publishing.

_____ (2013). *La Cour internationale de Justice*. Paris: Pedone.

Rosenne, Shabtai (2006). *The Law and Practice of the International Court 1920-2005*, vol. II, Jurisdiction, 4th ed. Leiden/Boston: Martinus Nijhoff Publishers.

Szafarz, Renata (1993). *The Compulsory Jurisdiction of the International Court of Justice*. Dordrecht/Boston/London: Martinus Nijhoff Publishers.

Thirlway, Hugh (2013). *The Law and Procedure of the International Court of Justice, Fifty Years of Jurisprudence*. Oxford: Oxford University Press.

Tomka, Peter (2002). The Special agreement. In *Liber Amicorum, Judge Shigeru Oda*, vol. 1, Nisuke Ando, Edward McWhinney and Rüdiger Wolfrum, eds. The Hague/London/New York: Kluwe Law International.

Zimmermann, Andreas, Christian Tomuschat, Karin Oellers-Frahm, Christian J. Tams, eds. (2012). *The Statute of the International Court of Justice, A Commentary*, 2nd ed. Oxford: Oxford University Press.

B. Useful websites

Home page of the Court	www.icj-cij.org
Basic documents of the Court (Statute of the Court, Rules of Court, Practice Directions)	www.icj-cij.org/documents
Case law of the Court	www.icj-cij.org/docket
List of declarations recognizing as compulsory the jurisdiction of the Court	www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3
List of treaties providing for Court jurisdiction	www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=4

List of cases submitted to the Court by special agreement	www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=2
Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice	www.un.org/law/trustfund/trustfund.htm
United Nations Treaty Collection	http://treaties.un.org

IX. Map of States that have unilaterally accepted the jurisdiction of the Court

97. The map below shows the States that have unilaterally accepted the jurisdiction of the Court, as well as the dates of their declarations (as at 1 July 2014):

Source (thematic data): International Court of Justice, **Credits**: Made with Natural Earth, **Copyrights**: @ 2014 Natural Earth.

General remarks: The boundaries and names shown as well as the designations used on this map do not imply official endorsement or acceptance.